

Economic Sanctions and Financial Crime

Anti-money laundering (AML) and economic sanctions are areas of tremendous complexity and constant change—areas that continuously present unique and difficult challenges to financial institutions. At the same time, numerous high-profile enforcement actions provide concrete evidence that AML and economic sanctions compliance has been—and, for the foreseeable future, will continue to be—top priorities for regulators and law enforcement, within the United States and globally. Institutions now face the very real prospect of billion-dollar fines and criminal prosecution for lapses. In the current environment, there can be no doubt that AML and economic sanctions compliance are critical to effectively managing risk and must be a focus of the boards of directors and senior management of financial institutions.

Interdisciplinary AML and Sanctions Team

Sullivan & Cromwell is ideally positioned to assist financial institutions in navigating AML and economic sanctions program challenges. To do so effectively, it is often necessary to bring diverse skills to bear:

- deep regulatory knowledge to identify a challenge;
- investigatory skills to identify its source, scope and magnitude;
- practical experience and creativity to develop sound remedial strategies;
- the capacity to adapt and adjust in the face of changing regulatory or law enforcement expectations;
- the ability to hone in on what is important, filter out the noise, and communicate critical information to stakeholders, whether they are internal to the institution or regulatory or law enforcement authorities;
- insight into past, present, and potential future enforcement trends to maximize leverage in settlement negotiations; and
- the capacity to comprehensively assess and develop sound strategies to address the potentially severe collateral consequences of regulatory or law enforcement action.

The Economic Sanctions and Financial Crime Group includes leading practitioners with demonstrated expertise and extensive experience in each of these areas. Included in the Group are former federal prosecutors and former government officials from the New York State Banking Department (now the New York Department of Financial Services), the Board of Governors of the Federal Reserve System, the Federal Reserve Bank of New York, the U.S. Department of the Treasury's Office of Foreign Assets Control (and Office of Terrorism and Financial Intelligence), and the New York Stock Exchange (now the Financial Industry Regulatory Authority) Enforcement Division. Together, the Group's unique interdisciplinary team—with lawyers whose practice area specialties range from supervision and regulation to investigations and litigation to mergers and acquisitions to Congressional investigations—is prepared to assist financial institutions with any AML or economic sanctions enforcement or compliance challenges they may face.

Regulatory, Enforcement and Litigation Expertise

S&C's Economic Sanctions and Financial Crime Group practitioners have provided counsel in nearly every high-profile AML and economic sanctions-related regulatory enforcement action and law enforcement

PRACTICES & CAPABILITIES

General Practice

Financial Services

- **Bank Regulatory**
- **Broker-Dealer**
- **Commodities, Futures & Derivatives**
- **Corporate Governance**
- **Digital Assets**
- **Economic Sanctions and Financial Crime**
- **Exchange/Alternate Trading Systems**
- **Financial Services Capital Markets**
- **Financial Services Investigations & Litigation**
- **Financial Services Mergers & Acquisitions**
- **FinTech**
- **Insurance**
- **Investment Management**
- **Payments**

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action involving a financial institution in the last decade, making it a preeminent presence in the areas of AML and economic sanctions enforcement and compliance.

SELECTED REPRESENTATIONS

S&C regularly advises clients of all sizes across various jurisdictions on Bank Secrecy Act (BSA)/AML and economic sanctions compliance and enforcement matters. This extensive experience has afforded us a deep understanding of the important issues faced by financial institutions in compliance as well as regulatory and criminal enforcement contexts. Representative matters include:

- **Standard Chartered Bank (SCB)** in the April 2019 global resolution of investigations by the United States Attorney's Office for the District of Columbia, the Money Laundering and Asset Recovery Section of the U.S. Department of Justice (DOJ), the New York County District Attorney's Office (DANY), the Office of Foreign Assets Control (OFAC), the Federal Reserve and the Federal Reserve Bank of New York, the New York State Department of Financial Services (DFS), and the U.K. Financial Conduct Authority (FCA) concerning deficiencies in SCB's sanctions compliance program that resulted in the processing of U.S. dollar transactions initiated from Iran and other sanctioned countries between 2007 and 2014. SCB paid approximately \$1.1 billion in total to resolve the investigations, with a total of \$947 million in penalties paid to the U.S. agencies and £102 million to the FCA. SCB agreed with DOJ and DANY to the entry of amended deferred prosecution agreements (DPAs), which amended and extended for a period of two years the DPAs entered into by SCB with DOJ and DANY in December 2012 for sanctions violations occurring between 2001 and 2007. In addition, SCB entered into a separate and concurrent agreement with OFAC to pay approximately \$18 million to settle potential liability for apparent violations of U.S. sanctions concerning Zimbabwe. We previously advised SCB regarding the above-mentioned December 2012 DPAs with the DOJ and the Manhattan District Attorney's Office and regulatory settlements with the DFS, the Federal Reserve and OFAC, all related to OFAC sanctions and AML compliance. As part of the settlement, SCB agreed to pay fines and forfeiture totaling \$667 million. S&C also represented SCB in its August 2014 settlement with the DFS related to the regulator's belief that the company had failed to implement systems improvements promised in the 2012 agreements. As part of the settlement, SCB agreed to pay a \$300 million penalty and take remedial steps to bolster its AML compliance.
- **Mashreq Bank** in the October 2018 consent order with DFS in connection with examinations and an investigation by the DFS into its AML program in its New York branch's U.S. dollar clearing operations. As part of the order, Mashreq was ordered to pay a \$40 million fine, revise its U.S. AML program, engage a third-party consultant to oversee its AML program remediation, and engage a look-back consultant to review transactions from 2016. In its announcement regarding the order, the DFS repeatedly commended Mashreq for its cooperation with the regulators and its willingness to improve its AML program compliance.
- **JPMorgan Chase Bank N.A.** in an approximately \$5.26 million settlement in October 2018 with OFAC for apparent violations of Cuban, Iranian and other sanctions relating to the net settlement of airline fees. OFAC gave JPMorgan mitigating credit for voluntary disclosure, and for its cooperation and remedial steps taken to prevent similar occurrences.
- **U.S. Bancorp** in connection with the organization's coordinated

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settlements with the U.S. Department of Justice, the Financial Crimes Enforcement Network (FinCEN), Office of the Comptroller of the Currency (OCC) and Federal Reserve Board related primarily to the bank's BSA/AML compliance program as well as the activities of Scott Tucker, one of U.S. bank's customers, who was indicted for running an illegal and fraudulent tribal payday lending businesses.

- **Deutsche Bank** regarding its \$41 million settlement and consent cease and desist order in May 2017 with the Federal Reserve for AML deficiencies in its U.S. banking operations.
- **U.S. and non-U.S. financial institutions and other multinational corporations** with regards to the April 6, 2018 designations by OFAC emanating from the Russian sanctions. The advice includes seeking licenses for large multi-national corporations to allow for additional time to comply with the sanctions and advising on wind-down and reporting of business involving designated parties.
- **The Bank of Nova Scotia** during an investigation by the Federal Reserve Bank of New York and the DFS into its AML program compliance. As part of a written agreement, the bank agreed to address identified deficiencies and review six months of wire-transfer activity, but no monetary penalty was assessed.
- **BNP Paribas S.A.** (BNPP) in a broad June 2014 settlement regarding regulatory and criminal investigations of its sanctions compliance regarding trade with Cuban, Iranian and Sudanese entities. The settlement, which included a guilty plea for violating economic sanctions and falsifying business records, resolved investigations by OFAC, the Federal Reserve, the DFS and the DOJ. BNPP agreed to pay fines, penalties and forfeitures totaling approximately \$9 billion.
- **TD Bank** in September 2013 consent orders with the OCC and FinCEN in connection with an investigation of TD Bank's AML controls and compliance with the BSA. Those orders were entered into simultaneously with a related consensual settlement with the Securities and Exchange Commission (SEC). The settlements stemmed from an account maintained at a TD predecessor bank by Scott Rothstein, a South Florida attorney who was convicted in 2009 of orchestrating a large-scale Ponzi scheme. As part of the settlements, TD Bank agreed to pay a \$37.5 million concurrent civil money penalty to the OCC and FinCEN and a separate \$15 million penalty to the SEC.
- **Numerous other financial institutions** in both public and non-public regulatory enforcement actions brought by federal and state banking authorities, as well as in ongoing, nonpublic government investigations into economic sanctions compliance, anti-money laundering issues, and other bank regulatory matters.
- **HSBC** in the December 2012 resolution of regulatory and criminal investigations of its historical OFAC sanctions and AML compliance. The settlements, which involved two deferred prosecution agreements and settlements with various regulators, resolved investigations by the OCC, OFAC, the DOJ and the Manhattan District Attorney's Office, and included fines and forfeiture totaling approximately \$1.92 billion.
- **Bank of Tokyo-Mitsubishi UFJ, Ltd.** in a December 2012 settlement with OFAC regarding an investigation into transactions performed by the bank's Tokyo office between 2006 and 2007 involving sanctioned entities, including Iran, Sudan and Myanmar. BTMU paid a \$8.57 million civil penalty. S&C also assisted in a related \$250 million settlement with the DFS in June 2013.

- **JPMorgan Chase** in resolutions with the DOJ, OCC, Federal Reserve and FinCEN relating to its compliance with the BSA in connection with its relationship with Bernard L. Madoff Securities.
- **ING Group** in the June 2012 resolution of investigations of several U.S. authorities into certain activities of its subsidiary, ING Bank N.V., that implicated U.S. economic sanctions. In reaching settlement with DOJ and the Manhattan District Attorney's Office, ING agreed to forfeit \$619 million and undertake certain remedial measures. In addition, S&C represented ING Group in a parallel settlement agreement with OFAC.
- **Barclays Bank plc** in the August 2010 resolution of regulatory and criminal investigations of the institution's historical payment practices involving parties subject to OFAC sanctions. The settlements, which included two deferred prosecution agreements and settlements with OFAC and bank regulators, resolved investigations by the DOJ, the Manhattan District Attorney's Office, OFAC and banking regulators, and included the forfeiture of \$298 million.
- **UBS** and **Wells Fargo** in regulatory enforcement actions with the OCC relating to BSA/AML compliance issues.